

§ 4217. Warrants to retake Canal Zone parole violators

An officer of a Federal penal or correctional institution, or a Federal officer authorized to serve criminal process within the United States, to whom a warrant issued by the Governor of the Canal Zone for the retaking of a parole violator is delivered, shall execute the warrant by taking the prisoner and holding him for delivery to a representative of the Governor of the Canal Zone for return to the Canal Zone.

(Added Pub. L. 94-233, § 2, Mar. 15, 1976, 90 Stat. 231.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 4210 of this title, prior to the repeal of such section and the general revision of this chapter by Pub. L. 94-233.

§ 4218. Applicability of Administrative Procedure Act

(a) For purposes of the provisions of chapter 5 of title 5, United States Code, other than sections 554, 555, 556, and 557, the Commission is an "agency" as defined in such chapter.

(b) For purposes of subsection (a) of this section, section 553(b)(3)(A) of title 5, United States Code, relating to rulemaking, shall be deemed not to include the phrase "general statements of policy".

(c) To the extent that actions of the Commission pursuant to section 4203(a)(1) are not in accord with the provisions of section 553 of title 5, United States Code, they shall be reviewable in accordance with the provisions of sections 701 through 706 of title 5, United States Code.

(d) Actions of the Commission pursuant to paragraphs (1), (2), and (3) of section 4203(b) shall be considered actions committed to agency discretion for purposes of section 701(a)(2) of title 5, United States Code.

(Added Pub. L. 94-233, § 2, Mar. 15, 1976, 90 Stat. 231.)

CHAPTER 313—MENTAL DEFECTIVES

Sec.

- 4241. Examination and transfer to hospital.
- 4242. Retransfer upon recovery.
- 4243. Delivery to state authorities on expiration of sentence.
- 4244. Mental incompetency after arrest and before trial.
- 4245. Mental incompetency undisclosed at trial.
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- 4247. Alternate procedure on expiration of sentence.
- 4248. Termination of custody by release or transfer.

AMENDMENTS

1951—Act Oct. 31, 1951, ch. 655, § 33, 65 Stat. 723, inserted "on expiration of sentence" in item 4243.

1949—Act Sept. 7, 1949, ch. 535, § 2, 63 Stat. 688, added items 4244-4248.

§ 4241. Examination and transfer to hospital

A board of examiners for each Federal penal and correctional institution shall consist of (1) a medical officer appointed by the warden or superintendent of the institution; (2) a medical officer appointed by the Attorney General; and (3) a competent expert in mental diseases ap-

pointed by the Surgeon General of the United States Public Health Service.

Such board shall examine any inmate of the institution alleged to be insane or of unsound mind or otherwise defective and report their findings and the facts on which they are based to the Attorney General.

The Attorney General, upon receiving such report, may direct the warden or superintendent or other official having custody of the prisoner to cause such prisoner to be removed to the United States hospital for defective delinquents or to any other institution authorized by law to receive insane persons charged with or convicted of offenses against the United States, there to be kept until, in the judgment of the superintendent of said hospital, the prisoner shall be restored to sanity or health or until the maximum sentence, without deduction for good time or commutation of sentence, shall have been served.

(June 25, 1948, ch. 645, 62 Stat. 855.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 876 (May 13, 1930, ch. 254, § 6, 46 Stat. 271).

Changes were made in phraseology and surplusage omitted.

ABOLITION OF OFFICE OF SURGEON GENERAL

The Office of the Surgeon General was abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and all functions thereof were transferred to the Secretary of Health, Education, of 1966, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Alternate procedure on expiration of sentence, see section 4247 of this title.

Mental incompetency undisclosed at trial, see section 4245 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4245, 4247 of this title.

§ 4242. Retransfer upon recovery

An inmate of the United States hospital for defective delinquents whose sanity or health is restored prior to the expiration of his sentence may be retransferred to any penal or correctional institution designated by the Attorney General, there to remain pursuant to the original sentence, computing the time of his detention or confinement in said hospital as part of the term of his imprisonment.

(June 25, 1948, ch. 645, 62 Stat. 855.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 877 (May 13, 1930, ch. 254, § 7, 46 Stat. 272).

Minor change was made in phraseology.

§ 4243. Delivery to State authorities on expiration of sentence

The superintendent of the United States hospital for defective delinquents shall notify the proper authorities of the State, Territory, District, or Possession where any insane prisoner has his legal residence, or, if this cannot be ascertained, the proper authorities of the State,

Territory, District, or Possession from which he was committed, of the date of expiration of sentence of any prisoner who, in the judgment of such superintendent, is still insane or a menace to the public. Such superintendent shall cause such prisoner to be delivered into the custody of the proper authorities of such State, Territory, District or Possession.

(June 25, 1948, ch. 645, 62 Stat. 855.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 878 (May 13, 1930, ch. 254, § 8, 46 Stat. 272).

Changes were made in translations and phraseology, and unnecessary words omitted.

§ 4244. Mental incompetency after arrest and before trial

Whenever after arrest and prior to the imposition of sentence or prior to the expiration of any period of probation the United States Attorney has reasonable cause to believe that a person charged with an offense against the United States may be presently insane or otherwise so mentally incompetent as to be unable to understand the proceedings against him or properly to assist in his own defense, he shall file a motion for a judicial determination of such mental competency of the accused, setting forth the ground for such belief with the trial court in which proceedings are pending. Upon such a motion or upon a similar motion in behalf of the accused, or upon its own motion, the court shall cause the accused whether or not previously admitted to bail, to be examined as to his mental condition by at least one qualified psychiatrist, who shall report to the court. For the purpose of the examination the court may order the accused committed for such reasonable period as the court may determine to a suitable hospital or other facility to be designated by the court. If the report of the psychiatrist indicates a state of present insanity or such mental incompetency in the accused, the court shall hold a hearing, upon due notice, at which evidence as to the mental condition of the accused may be submitted, including that of the reporting psychiatrist, and make a finding with respect thereto. No statement made by the accused in the course of any examination into his sanity or mental competency provided for by this section, whether the examination shall be with or without the consent of the accused, shall be admitted in evidence against the accused on the issue of guilt in any criminal proceeding. A finding by the judge that the accused is mentally competent to stand trial shall in no way prejudice the accused in a plea of insanity as a defense to the crime charged; such finding shall not be introduced in evidence on that issue nor otherwise be brought to the notice of the jury.

(Added Sept. 7, 1949, ch. 535, § 1, 63 Stat. 686.)

USE OF APPROPRIATIONS

Section 3 of act Sept. 7, 1949, provided that: "The Attorney General may authorize the use of any unexpended balance of the appropriation for 'Support of United States prisoners' for carrying out the purposes of Title 18, United States Code, sections 4244 to 4248, inclusive, or in payment of any expenses incidental

thereto and not provided for by other specific appropriations."

SEPARABILITY OF PROVISIONS

Section 4 of act Sept. 7, 1949, provided that: "If any provision of Title 18, United States Code, sections 4244 to 4248, inclusive, or the application thereof to any person or circumstance shall be held invalid, the remainder of the said sections and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby."

CROSS REFERENCES

Mental incompetency undisclosed at trial, see section 4245 of this title.

Procedure upon finding of mental incompetency, see section 4246 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4245, 4246 of this title.

§ 4245. Mental incompetency undisclosed at trial

Whenever the Director of the Bureau of Prisons shall certify that a person convicted of an offense against the United States has been examined by the board of examiners referred to in title 18, United States Code, section 4241, and that there is probable cause to believe that such person was mentally incompetent at the time of his trial, provided the issue of mental competency was not raised and determined before or during said trial, the Attorney General shall transmit the report of the board of examiners and the certificate of the Director of the Bureau of Prisons to the clerk of the district court wherein the conviction was had. Whereupon the court shall hold a hearing to determine the mental competency of the accused in accordance with the provisions of section 4244 above, and with all the powers therein granted. In such hearing the certificate of the Director of the Bureau of Prisons shall be prima facie evidence of the facts and conclusions certified therein. If the court shall find that the accused was mentally incompetent at the time of his trial, the court shall vacate the judgment of conviction and grant a new trial.

(Added Sept. 7, 1949, ch. 535, § 1, 63 Stat. 686.)

CROSS REFERENCES

Procedure upon finding of mental incompetency, see section 4246 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3006A, 4246 of this title.

§ 4246. Procedure upon finding of mental incompetency

Whenever the trial court shall determine in accordance with sections 4244 and 4245 of this title that an accused is or was mentally incompetent, the court may commit the accused to the custody of the Attorney General or his authorized representative, until the accused shall be mentally competent to stand trial or until the pending charges against him are disposed of according to law. And if the court after hearing as provided in the preceding sections 4244 and 4245 shall determine that the conditions specified in the following section 4247 exist, the

commitment shall be governed by section 4248 as herein provided.

(Added Sept. 7, 1949, ch. 535, § 1, 63 Stat. 686.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4248 of this title.

§ 4247. Alternate procedure on expiration of sentence

Whenever the Director of the Bureau of Prisons shall certify that a prisoner whose sentence is about to expire has been examined by the board of examiners referred to in title 18, United States Code, section 4241, and that in the judgment of the Director and the board of examiners the prisoner is insane or mentally incompetent, and that if released he will probably endanger the safety of the officers, the property, or other interests of the United States, and that suitable arrangements for the custody and care of the prisoner are not otherwise available, the Attorney General shall transmit the certificate to the clerk of the court for the district in which the prisoner is confined. Whereupon the court shall cause the prisoner to be examined by a qualified psychiatrist designated by the court and one selected by the prisoner, and shall, after notice, hold a hearing to determine whether the conditions specified above exist. At such hearing the designated psychiatrist or psychiatrists shall submit his or their reports, and the report of the board of examiners and other institutional records relating to the prisoner's mental condition shall be admissible in evidence. All of the psychiatrists and members of the board who have examined the prisoner may be called as witnesses, and be available for further questioning by the court and cross-examination by the prisoner or on behalf of the Government. At such hearing the court may in its discretion call any other witnesses for the prisoner. If upon such hearing the court shall determine that the conditions specified above exist, the court may commit the prisoner to the custody of the Attorney General, or his authorized representative.

(Added Sept. 7, 1949, ch. 535, § 1, 63 Stat. 686.)

CROSS REFERENCES

Procedure upon finding of mental incompetency, see section 4246 of this title.

Termination of custody by release or transfer, see section 4248 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4246, 4248 of this title.

§ 4248. Termination of custody by release or transfer

Whenever a person shall be committed pursuant to section 4247 of this title, his commitment shall run until the sanity or mental competency of the person shall be restored or until the mental condition of the person is so improved that if he be released he will not endanger the safety of the officers, the property, or other interests of the United States, or until suitable arrangements have been made for the custody and care of the prisoner by the State of his residence, whichever event shall first occur. Whereupon the Attorney General or his authorized representative shall file with the court

which made said commitment a certificate stating the termination of the commitment and the ground therefor: *Provided, however*, That nothing herein contained shall preclude a prisoner committed under the authority of section 4247 hereof from establishing his eligibility for release under the provisions of this section by a writ of habeas corpus. The Attorney General or his authorized representative shall have authority at any time to transfer a prisoner committed to his custody under the authority of section 4246 or section 4247 hereof to the proper authorities of the State of his residence.

(Added Sept. 7, 1949, ch. 535, § 1, 63 Stat. 686.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4246 of this title.

CHAPTER 314—NARCOTIC ADDICTS

Sec.

4251. Definitions

4252. Examination.

4253. Commitment.

4254. Conditional release.

4255. Supervision in the community.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 257.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 24-613 of the District of Columbia Code.

§ 4251. Definitions

As used in this chapter—

(a) "Addict" means any individual who habitually uses any narcotic drug as defined in section 102(16) of the Controlled Substances Act so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

(b) "Crime of violence" includes voluntary manslaughter, murder, rape, mayhem, kidnapping, robbery, burglary or housebreaking in the nighttime, extortion accompanied by threats of violence, assault with a dangerous weapon or assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable as a felony, or an attempt or conspiracy to commit any of the foregoing offenses.

(c) "Treatment" includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence, and his susceptibility to addiction.

(d) "Felony" includes any offense in violation of a law of the United States classified as a felony under section 1 of title 18 of the United States Code, and further includes any offense in violation of a law of any State, any possession or territory of the United States, the District of Columbia, the Canal Zone, or the Com-